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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,470	04/22/2005	Maarten Peter Bodlaender	NL 021061	1608

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EXAMINER	
PARK, JEONG S	

ART UNIT	PAPER NUMBER
2454	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/532,470	BODLAENDER, MAARTEN PETER	
	Examiner	Art Unit	
	JEONG S. PARK	2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 December 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This communication is in response to Application No. 10/532,470 filed on 4/22/2005. The argument presented on 12/29/2008 is hereby acknowledged. Claims 1-15 have been examined.

Specification

2. The argument presented on 12/29/2008 is persuasive. All prior objections to the specification are hereby withdrawn.

Claim Rejections - 35 USC § 101

3. The argument presented on 12/29/2008 is persuasive, and they are hereby withdrawn.

Claim Rejections - 35 USC § 112

4. The argument presented on 12/29/2008 is persuasive, and they are hereby withdrawn.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwamoto et al. (hereinafter Iwamoto)(U.S. Paten No. 7,190,415 B2) in view of Ehrlich et al. (hereinafter Ehrlich)(U.S. Patent No. 6,546,427 B1).

Regarding claims 1 and 13-15, Iwamoto teaches as follows:

an apparatus for outputting a media content item (a digital broadcasting receiver for changing a current channel from one channel to another channel when a commercial message is broadcast on the one channel on which a program is being watched, see, e.g., abstract), the apparatus comprising:

a receiver (digital broadcasting receiver 1 in figure1) arranged to receive a first media content item (interpreted as current channel)(see, e.g., col. 2, lines 6-17 and figure 1);

output means (display 10 and audio output processing section 16 in figure) arranged to output said first item to a user (see, e.g., col. 7, lines 37-67 and figure 1);

selection means (switch section 5 and microphone 6 have a function as an operation section for changing the current channel, see, e.g., col.7, lines 46-53 and figure 1) for user-operably inputting a command to replace said first item at a particular moment of outputting said first item (user can choose whether to change the channel automatically in accordance with a condition such as the program contents or under the instruction of the user, see, e.g., col. 15, lines 30-41 and figure 15);

search means arranged to search for at least one second media content item, wherein a duration of said at least one second item is substantially equal to said period of time (second digital broadcasting receiver 2, 30 in figure 10, always searches digital broadcast so as to pick up a digital broadcast on which a commercial message is not being broadcast, see, e.g., col. 13, lines 6-15); and

time-estimating means arranged to estimate, upon inputting said command, a period of time (interpreted as predetermined time) necessary for outputting a remaining

part of said first item (a predetermined time for which a commercial message in the current channel is expected to broadcast, see, e.g., col. 8, lines 46-64).

Iwamoto does not explicitly teach the substituting second item is substantially equal to the period of time.

Ehrlich teaches as follows:

the ISP transparently switches the network content at predetermined intervals and substitute alternative content for the selected content during the predetermined interval for delivery of the alternative content to the end user (see, e.g., abstract); and

the radio station notifies the IRSP as a signal of the time and duration of a pause to go to a commercial in the transmitted content (see, e.g., col. 4, lines 13-23 and step 10 in figure 2).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Iwamoto to include specifying a time and duration of the commercial of current channel as taught by Ehrlich in order to efficiently skip the unwanted content of program and substituting with no commercial broadcasting only for the specified commercial break time.

Regarding claim 2, Iwamoto teaches that a predetermined time for which a commercial message in the current channel is expected to broadcast (see, e.g., col. 8, lines 46-64).

Ehrlich teaches that the radio station notifies the IRSP as a signal of the time and duration of a pause to go to a commercial in the transmitted content (see, e.g., col. 4, lines 13-23 and step 10 in figure 2).

It would be obvious to subtract the time spent for the second media content item searching from the received expected commercial time of the first media content item in order for the accurate time estimating.

Regarding claim 3, Iwamoto teaches as follows:

the output means (display 10 and audio output processing section 16 in fig, see, e.g., col. 7, lines 37-67 and figure 1) are arranged to adjust the output of said second item to said period of time (watching time on channel B has reached the predetermined time, see, e.g., col. 8, lines 35-45).

Regarding claim 4, Iwamoto teaches a various warning method such as a warning sound, displaying warning characters or graphic, and so on (see, e.g., col. 10, lines 3-28). Therefore, it would be obvious to fade out the display of the second media content item in order to warn the user to return to the first media content item.

Regarding claim 5, Iwamoto teaches as follows:

said time estimating means are arranged to determine a duration of said first item (predetermined time, see, e.g., col. 8, lines 46-64) by identifying said first item in a database storing data pertaining to a duration of a plurality of media content items (the program of channel A is stored in the memory, see, e.g., col. 8, lines 24-34).

Regarding claim 6, Iwamoto teaches as follows:

said receiver is arranged to receive broadcast media content items (a digital broadcasting receiver for changing a current channel from one channel to another channel when a commercial message is broadcast on the one channel on which a program is being watched, see, e.g., abstract).

Iwamoto does not teach the monitoring means.

Ehrlich teaches as follows:

a switch (25 in figure 3) includes a circuitry for detecting a signal or message from the IRSP notifying the client application for a forthcoming commercial or the end of a commercial or the duration of forthcoming commercial (see, see, e.g., col. 4, lines 57-60).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Iwamoto to include a monitoring of forthcoming commercial with a duration as taught by Ehrlich in order to efficiently skip the unwanted content of program and substituting with no commercial broadcasting only for the specified commercial break time.

Regarding claim 7, Iwamoto teaches as follows:

said search means are arranged to search for said at least one second media content item in a database storing a plurality of media content items (second digital broadcasting receiver 2, 30 in figure 10, always searches digital broadcast so as to pick up a digital broadcast on which a commercial message is not being broadcast, see, e.g., col. 13, lines 6-15).

Therefore, it would be obvious to search the non-commercial broadcasting from a database storing a plurality of broadcasting program or the broadcasting information.

Regarding claim 8, Iwamoto teaches as follows:

said search means are arranged to establish for the first item being outputted a substitution list having at least one element indicating a particular second media content

item to be used for replacing said first item at a particular moment of outputting said first item (the digital broadcasting receiver 2 select a broadcasting station broadcasting contents belonging to the same category, see, e.g., col. 13, lines 35-54). Therefore the digital broadcasting receiver 2 inherently provides more than one broadcasting station belonging to the same category.

Regarding claim 9, Iwamoto teaches as follows:

wherein said search means are further arranged to select one of the second media items having the duration which is substantially equal to said period of time, based on user preferences (based on user's preference in response to the broadcast contents, it is determined which channel is the original channel or the another channel is watched continuously, see, e.g., col. 3, lines 51-59).

Regarding claim 10, Iwamoto teaches as follows:

wherein said search means are arranged to indicate a user's dislike of said first item in user's preferences (the user can change the current channel in accordance with the user's intention, see, e.g., col. 3, lines 7-16).

Regarding claims 11 and 12, Iwamoto teaches all the limitations of claim used in a digital broadcasting system.

Ehrlich teaches that a streaming multimedia communications system and method operation which enables an ISP to substitute alternate program content to an end user within an existing Internet Radio Service provider (ISRP) program (see, e.g., col. 1, lines 61-65).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Iwamoto to include radio broadcast content as taught by Ehrlich in order to broaden the application in various broadcast content.

Response to Arguments

7. Applicant's arguments filed 12/29/2008 have been fully considered but they are not persuasive.

A. Summary of Applicant's Arguments

Iwamoto fails to provide any teaching regarding estimating a time duration of the interruption of content on the first channel.

B. Response to Arguments:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Iwamoto teaches the originally claimed limitations as follows:

time-estimating means arranged to estimate a period of time necessary for outputting a remaining part of said first item (the commercial on current channel A can be interpreted as the remaining part of the first item, see, e.g., col. 8, lines 46-64); and

the predetermined time for which a commercial message is expected to be broadcast (see, e.g., col. 8, lines 46-47), the real commercial message can be different than the predetermined time (see, e.g., col. 8, lines 61-64).

Therefore the predetermined time period is equivalent to applicant's estimated time for outputting a remaining part of the first item.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEONG S. PARK whose telephone number is (571)270-1597. The examiner can normally be reached on Monday through Friday 7:00 - 3:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. S. P./
Examiner, Art Unit 2454

March 24, 2009

/Dustin Nguyen/

Primary Examiner, Art Unit 2454